

Family and Children's Health Programs Group, Center for Medicaid and State Operations

APR 10 2002

Chad Westover
Administrator
Children's Health Insurance Program
Utah Department of Health
PO Box 144102
Salt Lake City, Utah 84114-4102

Dear Mr. Westover:

Thank you for your proposal, dated March 31, 2002 to amend your State Children's Health Insurance Program (SCHIP) under title XXI, and the revisions submitted on April 2, 2002. As you are aware, your proposal has been undergoing review by the Department of Health and Human Services. In order to proceed with our review, we find it necessary to seek further information. Our concerns relate to the following areas, and we have included more specific questions requesting clarification on a number of issues in Enclosure A:

- **Sections 1.4, 4.3.1 and 9.9.2.** Section 2106(b)(3)(B)(i) of the Social Security Act (the Act) and the SCHIP regulations at 42 CFR 457.65(b) require that plan amendments that restrict eligibility may not take effect unless the state certifies that it has provided prior public notice of the change, in a form and manner provided under applicable state law. This section also requires that public notice be published before the requested effective date of the change. The regulations at 42 CFR 457.65(d) set forth that an enrollment cap constitutes a restriction of eligibility and that a state must amend its state plan per the requirements in 42 CFR 457.65(b). Furthermore, the regulations at 42 CFR 457.305(b) require that in its state plan, a state describe its process for implementing an enrollment cap. We are therefore requesting the following clarifications:
 1. Please state the effective date of the enrollment cap.
 2. Please certify that public notice of the enrollment cap was published in a form and manner provided in applicable state law and that it was published before the effective date of the cap.
 3. Please provide details on how the enrollment cap will be administered. For example: How is the cap defined? How and when will the State determine that sufficient funding is available for the program? How will the State determine the number of children that may be enrolled based upon available funding? How will the public be notified that the cap is in effect? How will the cap affect current enrollees?

- **Section 8.2.1.** Section 2103(e)(3)(A)(i) of the Act sets forth that for families with income below 150 percent of the Federal Poverty Level (FPL), states may not impose premiums that exceed the maximum monthly charge permitted with standards established to carry out section 1916(b)(1). Section 1916(b)(1) of the Act indicates that while states may impose a premium, the premium must be related to the individual's income, as determined in accordance with standards prescribed by the Secretary. The Medicaid regulations at 42 CFR 447.52(b) describe the maximum monthly charge based upon gross family income as prescribed by the Secretary. SCHIP regulations at 42 CFR 457.540(a) require that premiums for families below 150 percent of the FPL be less than or equal to the maximum amounts permitted under §447.52 of this chapter for a Medicaid eligible family of the same size and income. Please clarify that Utah will consider the size and income of the family when setting the aggregate premiums for families below 150 percent of the FPL.

Under section 2106(c) of the Act, CMS must approve, disapprove, or request additional information on a proposed title XXI state plan amendment within ninety days. This constitutes our notification that specified additional information is needed in order to assess fully the concerns raised in this letter. The 90-day review period has been stopped by this request and will resume as soon as the state's response to this request for additional information is received. The members of the review team will be happy to answer any questions you may have in regard to this letter and to assist your staff in formulating a response.

Please send your response, either on disk or electronically, as well as in hard copy, to Christina Moylan, project officer for the Utah title XXI proposal, with a copy to the CMS Region VIII office. Ms. Moylan's Internet address is cmoylan@cms.hhs.gov. Her mailing address is:

Centers for Medicare & Medicaid Services
Center for Medicaid and State Operations
Division of State Children's Health Insurance
Mail Stop S2-01-16
7500 Security Boulevard
Baltimore, Maryland 21244-1850

We appreciate the efforts of your staff and share your goal of providing health care to low-income, uninsured children through title XXI. If you have questions or concerns regarding the matters raised in this letter, your staff may contact either Ms. Moylan at (410) 786-6102 or Karen Shields, CMS Region VIII, at (303) 844-7082. They will provide or arrange for any technical assistance you may require in preparing your response. Your cooperation is greatly appreciated.

Sincerely,

/s/

Richard Chambers
Acting Director

cc: CMS Region VIII Office

Enclosure A

Section 2.4

1. Please delete the reference to the enrollment cap in this section and provide the description in section 4.3.1.

Section 4.3

2. Please clarify whether coverage for the enrollee begins on the date a completed application is returned to the state – or if it begins at a later time. If it begins at a later time, please clarify when it is effective.
3. Please provide additional information on the renewal process. What information is a family required to verify as part of the renewal process?

Sections 6.2 and 8.2.1

4. We are unable to “match” the proposed revisions to the cost sharing with your approved state plan. Please submit a complete listing of all cost sharing charges for families between 100 and 150% of the FPL, and above 151% of the FPL.

Section 8.2.3

5. The state plan must conform to Federal statutory and regulatory requirements, and must fully explain how a state is complying with these requirements. Any necessary changes to a state plan to conform with title XXI requirements must be submitted in writing and be fully explained. The second sentence that reads “Notwithstanding any inconsistent references within this state plan, the plan is hereby modified to conform to this Federal language” is not an acceptable substitute for assuring compliance with title XXI statutory and regulatory requirements. Please remove this language from the state plan.

Section 8.5

6. Please explain what notification is sent to families reaching the 5 percent cap and how they can obtain relief from cost sharing. Please assure that the State will not be relying primarily on a refund methodology.